

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Joint Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Switching in Its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 01-02-024  
(Filed February 21, 2001)

Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Loops in Its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 01-02-035  
(Filed February 28, 2001)

**ASSIGNED COMMISSIONER'S AND ADMINISTRATIVE LAW JUDGE'S  
RULING REGARDING EX PARTE COMMUNICATIONS DURING  
RATESETTING DELIBERATIVE QUIET-TIME**

On May 2, 2002, the Commission announced that it would hold a Ratesetting Deliberative meeting on the above-captioned proceeding (the "UNE Reexamination"). Notice of the closed session meeting was provided to the public in advance of the meeting via the Commission's public meeting agenda. The meeting was held on May 15, 2002.

Pub. Util. Code § 1701.3(c) provides, in pertinent part, that:

The commission may establish a period during which no oral or written ex parte communications shall be permitted and may meet in closed session during that period which shall not in any circumstance exceed 14 days.

The Commission's Rules of Practice and Procedure state in Rule 7.c.4. that:

In any ratesetting proceeding, the Commission may establish a period during which no oral or written communications on a substantive issue in the proceeding shall be permitted between an interested person and a Commissioner, a Commissioner's personal advisor, the Chief Administrative Law Judge, any Assistant Chief Administrative Law Judge, or the assigned Administrative Law Judge.

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#### Prohibition of Ex Parte Communications When a Ratesetting Deliberative Meeting is Scheduled:

In all ratesetting proceedings in which a hearing has been held, a proposed decision has been filed and served, and a Ratesetting Deliberative Meeting has been scheduled, there shall be a prohibition on communications as provided in this subsection.

The first day of the prohibition on communications will be the day of the Ratesetting Deliberative Meeting at which the proposed decision is scheduled to be discussed and will continue through the conclusion of the Business Meeting at which a vote on the proposed decision is scheduled.

The Commission's Rules define an ex parte communication as a written or oral communication that concerns any substantive issue in a formal proceeding, takes place between an interested person and a decisionmaker, and does not

occur in a public hearing, workshop, or other public setting, or on the record of the proceeding. (Rule 5.e) The rules further define an “interested person” to include a party who has made a formal appearance in a case (Rule 5.h).

It has come to our attention that two parties to this proceeding engaged in ex parte communications on May 15, 2002, despite the existence of an ex parte ban related to the Ratesetting Deliberative meeting. On May 15, 2002, Pacific Bell Telephone Company (Pacific), a party in the UNE Reexamination proceeding, sent a letter to all five Commissioners regarding the substance of a proposed decision in this proceeding. A copy of the letter was also sent to five of the commissioners’ personal advisors and the assigned ALJ. Thus, Pacific appears to have violated the ex parte rules prohibiting contact with these specific individuals with eleven separate offenses. On the same day, an attorney representing WorldCom, Inc. (WorldCom), one of the applicants in this proceeding, left a voicemail message for Tom Long, Commissioner Lynch’s personal advisor, also regarding the substance of a proposed decision in this matter.

Therefore, Pacific and WorldCom should each respond to this ruling with the following:

1. A complete and thorough explanation of why they failed to comply with the Commission’s ex parte rules, notably Rule 7 of the Commission’s Rules of Practice and Procedure.
2. A full and complete assessment of what action the Commission should take given these apparent violations of Rule 7.
3. Any other information Pacific or WorldCom considers relevant to the Commission’s determination of what action it should take in response to these apparent violations.

Accordingly, **IT IS RULED** that:

1. Pacific Bell Telephone Company (Pacific) and WorldCom, Inc. (WorldCom) shall file and serve a response to this ruling, addressing the questions set forth above, no later than May 28, 2002.
2. Parties to this proceeding may file and serve replies to Pacific's and WorldCom's filings no later than June 4, 2002.

Dated May 20, 2002, at San Francisco, California.

/s/ CARL W. WOOD  
Carl W. Wood  
Assigned Commissioner

/s/ DOROTHY DUDA  
Dorothy Duda  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's and Administrative Law Judge's Ruling Regarding Ex Parte Communications During Ratesetting Deliberative Quiet-Time on all parties of record in this proceeding or their attorneys of record.

Dated May 20, 2002, at San Francisco, California.

/s/ JEANNIE CHANG

Jeannie Chang

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.